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CENTRAL FAX CENTER

Attorney Docket No.: UNIV0007

APR 03 2007

U.S. Serial No.: 10/804,799

## REMARKS

1. Applicant thanks the Examiner for her remarks and observations which have greatly assisted Applicant in responding.

2. **35 U.S.C. § 102**

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. publication no. 2003/0033396 ("McCall"). Applicant respectfully disagrees.

McCall describes a method and system for providing management information wherein information is gathered at destination facilities and analyzed to generate advisory information. The advisory information is then directed to a field service representative to address the situation to which the advisory information pertains. There is no indication in McCall that the data collector and the field service representative are the same entity. As described in McCall, a data collector collects data regarding a washing machine, for example, which is transmitted to the advisory server module. If a time-critical situation is found to exist, a field service representative is dispatched to the destination facility to address the time-critical situation. In all of McCall's embodiments, the data collector and the field service representative are different entities.

In stark contrast, the invention describes an apparatus wherein a client gathers advisories describing problems that has been discovered on client computers. The client then determines whether an advisory is relevant to the properties of the computational device upon which the client is running.

Then, the client implements whatever remedial actions it is directed to take by the server, which remedial actions are specified in the advisory.

Thus, in the claimed invention, it is the client that gathers the data, determines its relevance, transmits it to the server, and implements corrective action as needed.

While Applicant believes that claim 1, without more, is allowable over McCall, especially in view of the language of the preamble, describing the

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context of the invention as a network of distributed clients, and/or a network of computational devices, Applicant amends claim 1 to describe more clearly that the client is a client running on a computational device in a networked environment, rather than a customer or a patient or a washing machine, and that the client gathers the data, determines relevance and implements actions. Support for the amendments is found in the preamble to claim 1. Further support is found in claim 18. Claim 1 is further amended to incorporate the subject matter of claim 3, with claim 3 cancelled from the Application.

While claim 3 is rejected as being unpatentable over the combination of McCall and Uecker, as Applicant demonstrates herein below, the rejection is without merit.

Therefore, because claim 1 describes subject matter not taught by McCall it is deemed to be allowable over McCall under 35 U.S.C. § 102. In view of their dependence from an allowable parent, the dependent claims are deemed allowable without any separate consideration of their merits.

Claim 4: The Examiner relies on McCall, ¶¶ 0019-0021 as teaching "wherein said relevance clause is written in a formal descriptive language; and wherein said advisory comprises a short, clear explanation of said problem." Applicant respectfully disagrees. The cited teaching merely makes mention of advisory information. The form of the advisory information is not described. Therefore, even if claim 1 were not allowable, claim 4 would be allowable in its own right.

Claim 5: The Examiner relies on McCall, ¶ 0128 as teaching "means for adding, modifying, or canceling a subscription of a distributed client to one or more advice provider sites." Applicant respectfully disagrees. The cited paragraph describes an authentication process. Thus, it has nothing to do with adding, modifying, or canceling a client subscription. Therefore, even if claim 1 were not allowable, claim 5 would be allowable in its own right.

Claim 12: A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. Here, the Examiner improperly relies on

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Uecker as teaching a portion of the subject matter of the claim.

The Examiner has not identified any portion of McCall that describes "a centrally managed advisory diffusion server for gathering advisories from an advisory site." Accordingly, the present rejection is improper. Additionally, the Examiner incorporates her remarks concerning claims 1, 2, 4 and 5 into the present rejection. Applicant responds that claim 12 is allowable over McCall for the same reasons that claim 1 is allowable over McCall. Nevertheless, Applicant amends claim 12 in similar fashion to claim 1 to emphasize the novel features of the invention.

Claim 13: The Examiner incorporates her remarks concerning claims 1, 2, 4, 5 and 12 into the present rejection. However, the Examiner has not identified any portion of McCall that describes "a plurality of relays for relaying said advisories to said clients and for receiving related data from said client to forward to said server." The present rejection is therefore without merit. Accordingly, claim 13 would be allowable even if claim 12 were not.

Claim 14: Again incorporating previous remarks into the present rejection by reference, the Examiner fails to identify any portion of McCall that describes "means for a console operator to target patches or other fixes to appropriate computers when vulnerabilities are discovered." The present rejection is therefore without merit.

Claim 15: Again incorporating previous remarks into the present rejection by reference, the Examiner fails to identify any portion of McCall that describes "means for following progress of said patches or fixes in near real-time as they spread to all relevant computers and, one by one, eliminate bugs and vulnerabilities for affected computers across said network." The present rejection is therefore without merit.

Claim 16: Again incorporating previous remarks into the present rejection by reference, the Examiner fails to identify any portion of McCall that describes "means for keeping a running history of any and all remedial actions taken with regard to said computers." The present rejection is therefore without merit.

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Claim 17: Again incorporating previous remarks into the present rejection by reference, the Examiner fails to identify any portion of McCall that describes "means for providing a detailed audit trail for every action and every maintained computer on said network." The present rejection is therefore without merit.

Claim 18: A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. Here, the Examiner improperly relies on Uecker as teaching a portion of the subject matter of the claim.

The Examiner fails to identify any portion of McCall that describes "a console for providing a system-wide view of said managed computers . . . ." The present rejection is therefore without merit. Additionally, the Examiner incorporated previous remarks by reference. As with claims 1 and 12, McCall fails to teach all elements of the claimed invention. Nevertheless, claim 18 is amended to clarify the novel points of the invention. Claim 18 is therefore allowable over McCall.

Claim 19: Incorporating previous remarks by reference, the Examiner fails to point to any portion of McCall that teaches "a relay for offloading said server, wherein a plurality of clients point to a relay for downloads." The present rejection is accordingly without merit.

Claim 20: The Examiner fails to point to any portion of McCall that teaches "wherein a plurality of interaccessible relays are provided." Thus, the present rejection is without merit.

Claim 21: The Examiner fails to point to any portion of McCall that teaches "a report module for maintaining an audit trail of all console activity on said network." Thus, the present rejection is without merit.

Claim 22: The Examiner fails to point to any portion of McCall that teaches "a filter panel for providing a set of folders that contains specific field values to focus console activity." Thus, the present rejection is without merit.

Claim 24: The Examiner fails to point to any portion of McCall that teaches "a human-readable relevance language for said messages that provides expressions for querying an exhaustive set of computer properties to target

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actions only to those computers matching predetermined relevance criteria." Thus, the present rejection is without merit.

Claim 25: A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. Here, the Examiner improperly relies on Uecker as teaching a portion of the subject matter of the claim.

The Examiner fails to identify any portion of McCall that teaches

"at least one relay for offloading a download burden from said server, wherein said clients download from a designated relay;

wherein said server distributes each advisory once to said relay, which in turn distributes said advisory to said clients; and

overhead on said server is reduced by a ratio of relays to clients." The present rejection is therefore without merit. Nevertheless, claim 25 is amended to describe the novel features of the invention more clearly.

Claim 26: The Examiner identifies no portion of McCall that teaches "wherein for each client in said network, both a primary and a secondary relay are specified." The present rejection is therefore without merit.

Claim 27: The Examiner identifies no portion of McCall that teaches "wherein each client first attempts to download from its primary relay; and wherein if said primary relay is unavailable for a client, said client can download from said secondary relay." The present rejection is therefore without merit.

Claim 28: The Examiner identifies no portion of McCall that teaches "wherein if said primary relay fails, said secondary relay becomes a primary relay." The present rejection is therefore without merit.

Claim 29: The Examiner identifies no portion of McCall that teaches "wherein if said secondary also fails, said client automatically downloads directly from said server." The present rejection is therefore without merit.

The Examiner issues a blanket rejection of claims 30-67 as being anticipated by McCall. Because claims 30-58 are method claims that substantially parallel claims 1-29, the above remarks regarding claims 1-29 are equally applicable to claims 30-58. Corresponding amendments have been

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made to claims 30-58 as those made to claims 1-29. Accordingly, claims 30-58 are deemed allowable over McCall for the same reasons that claims 1-29 are allowable over McCall.

Applicant notes that claims 3 and 6-11 are rejected under 35 U.S.C. § 103, while the Examiner includes the corresponding method claims 32 and 35-40 in her blanket rejection of claims 30-67. By her reliance on Uecker under 35 U.S.C. § 103 to reject the subject matter of claims 3 and 6-11, the Examiner implicitly admits that similar subject matter in claims 32 and 35-40 is not anticipated by McCall. Accordingly, the present rejection of claims 32 and 35-40 under 35 U.S.C. § 102 is deemed improper.

Claim 59: Claim 59 is an apparatus claim having no counterpart in claims 1-29. Claim 59 has been amended in similar manner to the other independent claims in order to describe the invention more clearly. Claim 59 describes:

"In a system for formalizing, diffusing, and enforcing policy advisories and for monitoring policy compliance in the management of a network of computational devices, said system comprising: a plurality of distributed clients, each of which runs is associated with and runs on a corresponding networked computational device, a server for coordinating information flow to and from individual clients, and a plurality of relays, each of which aggregates and mediates communication between said distributed clients and said server; an apparatus comprising:

means associated with each said client for evaluating a relevance clause identifying a file or group of files to upload to said server from its associated computational device;

means associated with each said client for aggregating a file or group of files resident on its associated computational device into a file collection;

wherein a relay offloads an upload burden from said server; and

wherein said clients upload said file collection to said server via a designated relay; and

means associated with each said client for distributing each file collection once to said relay, which in turn distributes said file collection to said server."

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The Examiner has not pointed out in any previous rejection where McCall teaches "means associated with each said client for aggregating a file or group of files resident on its associated computational device into a file collection."

Additionally, in previous rejections, the Examiner has failed to demonstrate that McCall teaches "wherein a relay offloads an upload burden from said server; and

wherein said clients upload said file collection to said server via a designated relay; and

means associated with each said client for distributing each file collection once to said relay; which in turn distributes said file collection to said server."

Because McCall has not been shown to describe each and every element of claim 59, the present rejection is without merit, rendering claim 59 allowable over McCall. In view of their dependence from an allowable parent, claims 60-67 are deemed to be allowable without any separate consideration of their merits.

Claim 61: The Examiner fails to identify any portion of McCall that teaches "wherein said client compresses said file collection to reduce said collection's data size." The present rejection is therefore improper.

Claim 62: The Examiner fails to identify any portion of McCall that teaches "wherein said client distributes each file collection periodically to said relay, which in turn distributes said files to said server." The present rejection is therefore improper.

Claim 63: The Examiner fails to identify any portion of McCall that teaches "wherein said client does not include files in a file collection that have not changed since a previous file collection containing said files was uploaded." The present rejection is therefore improper.

Claim 64: The Examiner fails to identify any portion of McCall that teaches "means for limiting bandwidth consumed by said client during upload of said file collection to said relay." The present rejection is therefore improper.

Claim 65: The Examiner fails to identify any portion of McCall that teaches "means for limiting bandwidth consumed by said relay during upload of said file collection to said server." The present rejection is therefore improper.

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Claim 66: The Examiner fails to identify any portion of McCall that teaches "means for resuming an interrupted upload of said file collection by said client to said relay at a point of interruption." The present rejection is therefore improper.

Claim 67: The Examiner fails to identify any portion of McCall that teaches "means for resuming an interrupted upload of said file collection by said client to said relay at a point of interruption." The present rejection is therefore improper.

In view of the foregoing, claims 1-67 are deemed allowable under 35 U.S.C. § 102.

### 3. 35 U.S.C. § 103

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143.

Claims 3 and 6-11 are rejected as being unpatentable over McCall in view of U.S. publication no. 2003/0033396 ("Uecker"). Applicant respectfully disagrees. In view of the foregoing regarding claim 1, the present rejection is deemed improper/overcome. Additionally, the Examiner relies on Uecker, col. 4, lines 51-58 & 66-67, col. 5, lines 9-13 & 25-49 as teaching an "advice message."

While the cited teaching from Uecker does mention advisory messages, col. 4, lines 13-19 describe an advisory message as comprising "information pertaining to the dispensed product, promotional materials or coupons pertaining to prescription or non-prescription products, and news about pharmacy products or procedures, or pertaining to health in general." The present invention has nothing to do with prescriptions, pharmacies or healthcare. Claim 1 describes an advisory as "describing a problem that has been discovered on a client



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computational device." Accordingly, there is no teaching or suggestion in the cited portion of Uecker of an advice message that describes a problem that has been discovered on a client computational device. McCall adds nothing to Uecker. Accordingly, there is no teaching or suggestion of the subject matter of claims 3 in the combination of McCall and Uecker.

Claim 6: The Examiner relies on Uecker, col. 4, lines 51-58 & 66-67, col. 5, lines 9-13 & 25-49 as teaching "means for selecting a group of computational devices, specifying action messages, scheduling, and controlling execution when deploying actions proposed by relevant advice messages. Applicant respectfully disagrees. The col. 4 teachings describe appropriate topics for advice messages and targeting of advice messages according to gender and/or age group. The col. 5 teachings describe targeting according to insurance carrier and storing the targeting criteria in a database to trigger generation of the appropriate advisories. Even if it could be said that the cited teachings describe "specifying action messages" and/or, "scheduling," which it cannot be said, there is no teaching of "means for selecting a group of computational devices . . ." or "controlling execution when deploying actions proposed by relevant advice messages." McCall adds nothing to Uecker. Accordingly, the combination fails to teach or suggest the subject matter of claim 6.

Claim 7: The Examiner relies on the above teachings from Uecker as describing "means for securely deploying actions of relevant advice messages to a selected group of said distributed clients." Applicant respectfully disagrees. The cited teachings do describe dissemination of advisory messages to targeted groups of patients. However, as Applicant has previously explained a client running on an associated computational device is not a patient. Nor do the cited teachings describe "deploying actions of relevant advice messages to a selected group of said distributed clients." They only describe dissemination of the advisory actions. McCall adds nothing to Uecker. Accordingly, the combination fails to teach or suggest the subject matter of claim 7.

Claim 8: The Examiner relies on the above teachings as describing "means for monitoring status of deployed actions." Applicant respectfully

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disagrees. Merely providing an advisory action to a patient in no way teaches or suggests "monitoring status of deployed actions." McCall adds nothing to Uecker. Accordingly, the combination fails to teach or suggest the subject matter of claim 8.

Claim 9: The Examiner relies on the above teachings as describing "means for stopping previously deployed actions which have not finished running." As above, dissemination of health advisories to patients when they get a prescription filled in no way teaches or suggests "stopping previously deployed actions which have not finished running."

Claim 10: The Examiner relies on the above teachings as describing "means for monitoring status of each computational device while actions are being deployed and executed." As Applicant has previously explained, the present invention has nothing to do with patients or healthcare or prescription drugs. Nor is there any teaching in the Uecker of anybody monitoring anything. The computer simply spits out a health advisory targeted to the particular patient.

Claim 11: The Examiner has not previously pointed to any portion of either reference in the combination that teaches or suggests "wherein said means for monitoring allows said system administrator to define and retrieve customized properties of computational devices using a formal descriptive language." The present rejection is therefore deemed improper.

Additionally, there would be little motivation for the ordinarily-skilled practitioner to combine the teachings of McCall and Uecker in the manner suggested by the Examiner because their environments of use are so different that Uecker provides nothing the way of implementation details that the ordinarily-skilled practitioner would hope to find in looking to Uecker. In view of the foregoing, claims 3, and 6-11 are deemed to be allowable under 35 U.S.C. § 103.

4. The above amendments are made to describe the invention more clearly, in the interest of advancing prosecution of the Application. They are not an indication of agreement by Applicant with the Examiner's position. Nor are they evidence of intent to sacrifice claim scope. In fact, Applicant expressly reserves

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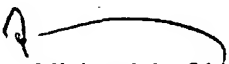
the right to pursue patent protection of a scope it reasonably believes it is entitled to in one or more continuing applications.

5. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the prior art.

### CONCLUSION

In view of the foregoing, the Application is deemed to be in allowable condition. Accordingly, Applicant respectfully requests reconsideration and prompt allowance of the claims. Should the Examiner have any questions regarding the Application, she is invited to contact Applicant's attorney at 650-474-8400.

Respectfully submitted,

  
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